

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Hu et al.

Application Serial No.: 09/219,442

Filed: December 23, 1998

For: Vascular Endothelial Growth Factor 2



Group Art Unit: 1646

Examiner: Saoud, C.

Atty. Docket No.: PF112P2D1

TERMINAL DISCLAIMER FEE TRANSMITTAL

Assistant Commissioner For Patents
Washington, D.C. 20231

Sir:

The fee for processing the attached Terminal Disclaimer is believed to be \$110. Please charge the required fee to our deposit Account No. 08-3425. A duplicate copy of this sheet is attached.

Respectfully submitted,

Dated:

July 10/2000

Michele M. Wales

(Reg. No. 43,975)

Michele M. Wales
Attorney for Applicants

Human Genome Sciences, Inc.
9410 Key West Avenue
Rockville, MD 20850
Telephone: (301) 610-5772

Enclosure

MMW/lcc

DATE: 7/27/00
TO EXAMINER: Savard CPARALEGAL Sydney Buffalo DW 11D16 MAILROOM DATE 7/10/00APPL. S.N.: 09/219442ART UNIT: 16487AFTER FINAL YES NO NUMBER OF T.D(S). FILED _____

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE LEFT IN FILE.

The T.D. is PROPER and has been recorded. (See 14.23).

The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

The recording fee of \$ _____ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

Application Examiner has not processed T.D. fee. (See fee authorization).

The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

It is directed to a particular claims(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

The person who signed the terminal disclaimer:

has failed to state his/her capacity to sign for the business entity. (See 14.28).

is not recognized as an officer of the assignee. (See 14.29 and possibly 14.29.01).

No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

The T.D. is not signed. (See 14.26, 14.26.3), or 14.26.03 if TD is not signed by all the owners.

Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed) is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3) (For Samples 14.27.04 and 14.27.05)

Other: _____

Suggestion to request refund of \$ _____. (See 14.35, 14.36).

EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALITIES MAY BE FAXED IN TO THE GROUP

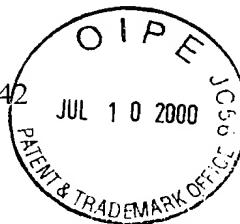
FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:

- Sample of a TD over a pending application and assignee Certificate (See 14.37).
- Sample of a TD over a prior patent and assignee Certificate (See 14.38).
- Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Hu et al.

Application Serial No.: 09/219,442



Group Art Unit: 1646

Filed: June 30, 1998

Examiner: Saoud, C.

For: Vascular Endothelial Growth Factor 2

Atty. Docket No.: PF112P2D1

148
#13 7/27/00
SAB
T.D. Accepted
VB
21

TERMINAL DISCLAIMER

Assistant Commissioner For Patents
Washington, D.C. 20231

Sir:

Your Petitioner, Michele W. Wales, represents that she holds the position of Attorney of Human Genome Sciences, Inc. of the entire right, title and interest in and to the above-identified application by virtue of an assignment which was recorded on August 18, 1998, at Reel 9440, Frame 0794 in Application Serial No. 08/999,811, filed December 24, 1997.

Petitioner hereby disclaims the terminal part of any patent granted on the above identified application which would extend beyond the expiration date of U.S. Patent No. 5,932,540, which issued on August 3, 1999, and hereby agrees that any patent so granted on the above identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 5,932,540.

Petitioner further agrees that this agreement is to run with any patent granted on the above-identified application and is to be binding upon the grantee, its successors, and assigns.

Petitioner does not disclaim any terminal part of the patent granted on the above-identified application prior to the expiration date of the full statutory term of U.S. Patent No. 5,932,540 in the event that said patent later expires for failure to pay a maintenance fee, are held unenforceable, are found invalid, are statutorily disclaimed in whole or terminally

disclaimed under 37 C.F.R. 1.321(a), have all claims canceled by a reexamination certificate, or are otherwise terminated prior to the expiration of their full statutory term, except for the separation of legal title stated above.

Petitioner hereby confirms that she has reviewed the assignment and, to the best of her knowledge and belief, title is in the assignee seeking to take action in this matter and that she is empowered to act on behalf of Human Genome Sciences, Inc.

Petitioner hereby declares that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this 18th day of July, 2000.

HUMAN GENOME SCIENCES, INC.


Michele M. Wales (Reg. No. 43,975)
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